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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

LYNWOOD UNIFIED SCHOOL  
DISTRICT,

Plaintiff and Respondent,

v.

PAMELA FINLEY,

Defendant and Appellant.

B283770

(Los Angeles County  
Super. Ct. No. BC620026)

APPEAL from a judgment of the Superior Court of Los Angeles County. Barbara A. Meiers, Judge. Affirmed.

Pamela Finley, in pro. per., for Defendant and Appellant.

Fagen Friedman & Fulfrost, Lynn Marie Beekman and Shiva E. Stein for Plaintiff and Respondent.

\* \* \* \* \*

Plaintiff and respondent Lynwood Unified School District was granted summary judgment on its complaint pursuant to Education Code section 44942. Defendant and appellant Pamela Finley contends the trial court erred in granting judgment to plaintiff. Because defendant failed to oppose the motion below and otherwise failed to show reversible error in her briefing on appeal, we affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

Defendant was employed by plaintiff as a preschool teacher. Sometime during 2013 and continuing into the 2015-2016 school year, defendant began to exhibit “a pattern of erratic, emotional, and unnerving behavior” while at work.

In February 2016, plaintiff’s Board of Education voted to suspend defendant from service pursuant to Education Code section 44942. Defendant was given notice of her rights in accordance with the statutory scheme. On February 19, 2016, defendant appeared before the Board of Education “with her representative in a closed session” where she had the opportunity to explain and refute the charges. Thereafter, defendant was examined by two agreed-upon psychiatrists and one psychologist, each of whom reported to plaintiff that defendant suffered from mental illness that rendered her unfit to continue in her position as a preschool teacher.

Defendant disputed the findings and requested a hearing in accordance with subdivision (g) of Education Code section 44942, which required plaintiff to file this lawsuit seeking a judgment that the charges supporting defendant’s suspension are true and constitute legal grounds to place defendant on a mandatory sick leave of absence.

Defendant appeared in propria persona and filed a general denial.

Thereafter, plaintiff filed a motion for summary judgment supported by numerous declarations and exhibits. Defendant did not file any opposition and did not appear at the hearing on the motion held April 12, 2017. The proceedings were not transcribed by a court reporter. The trial court granted plaintiff's motion, finding that plaintiff had established defendant "suffers from mental illness of such a degree to render her incompetent to perform her duties as a preschool teacher."

This appeal followed.

### DISCUSSION

It is well established that "[a] judgment or order of the lower court is *presumed correct*. All intendments and presumptions are indulged to support it on matters as to which the record is silent, and error *must be affirmatively shown*. This is not only a general principle of appellate practice but an ingredient of the constitutional doctrine of reversible error.' [Citations.]" (*Denham v. Superior Court of Los Angeles County* (1970) 2 Cal.3d 557, 564, second italics added; accord, *Cahill v. San Diego Gas & Electric Co.* (2011) 194 Cal.App.4th 939, 956 (*Cahill*).) Further, unless otherwise shown, "it is presumed that the court followed the law." (*Wilson v. Sunshine Meat & Liquor Co.* (1983) 34 Cal.3d 554, 563.)

While defendant's briefs are largely unintelligible, it appears she contends plaintiff did not show she has a mental illness or that she is incompetent to be a preschool teacher.

Defendant did not oppose plaintiff's motion for summary judgment in the trial court, did not appear at the hearing on the motion and did not request that the proceedings be transcribed.

Defendant does not claim she was denied proper notice of the motion or was otherwise prevented from opposing it, and nothing in the record indicates she was denied notice or an opportunity to be heard.

Defendant therefore forfeited any contention the trial court erred in granting judgment to plaintiff. (*North Coast Business Park v. Nielsen Construction Co.* (1993) 17 Cal.App.4th 22, 28 [“failure to preserve a point below constitutes a waiver of the point”]; accord, *Ochoa v. Pacific Gas & Electric Co.* (1998) 61 Cal.App.4th 1480, 1488, fn. 3 [argument not raised in trial court may not be raised for the first time on appeal]; see also *Pieper v. Commercial Underwriters Ins. Co.* (1997) 59 Cal.App.4th 1008, 1016, italics added [“ ‘In determining the propriety of a summary judgment, the reviewing court is *limited to facts shown by the evidentiary materials submitted*, as well as those admitted and uncontested in the pleadings.’ ”].)

Defendant’s brief fails to provide any coherent argument, other than vague, unsupported references to having been denied due process. Her arguments are not supported by citation to relevant authority or citations to the record. It is not the role of a reviewing court “to construct arguments that would undermine the lower court’s judgment and defeat the presumption of correctness. Rather, an appellant is required to present a cognizable legal argument in support of reversal of the judgment and when the appellant fails to support an issue with pertinent or cognizable argument, ‘it may be deemed abandoned and discussion by the reviewing court is unnecessary.’ [Citation.] Issues not supported by argument or citation to authority are forfeited.” (*Needelman v. DeWolf Realty Co., Inc.* (2015) 239 Cal.App.4th 750, 762; accord, *Cahill, supra*, 194 Cal.App.4th

at p. 956; see also *First American Title Co. v. Mirzaian* (2003) 108 Cal.App.4th 956, 958, fn. 1 [“A party proceeding in propria persona ‘is to be treated like any other party and is entitled to the same, but no greater consideration than other litigants and attorneys.’ ”].)

**DISPOSITION**

The judgment is affirmed. Respondent is to recover its costs on appeal.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

WILEY, J.